

2002 Legislative Changes

House Bill 302 **Release of deed of trust or other lien. §55-66.3** Authorizes a settlement agent who has paid the obligation secured by a mortgage or deed of trust to release the lien by executing and filing a certificate of satisfaction. This procedure is available only if the settlement agent has delivered a notice of intent to release the mortgage and a copy of the payoff letter to the lien creditor and the lien creditor does not within 90 days notify the settlement agent that (i) another release has been recorded, (ii) the obligation secured by the mortgage has not been paid, or (iii) the lien creditor otherwise objects to the release of the mortgage. This optional procedure applies only to transactions involving not more than four residential dwelling units.

Note: A settlement agent may only use this procedure for a full release. The content of the required notice and affidavit is set forth in the code. A copy of the notice and affidavit must be attached to releases done by settlement agents and RECORDED with the certificate. No change has been made for releases done by the noteholder.

House Bill 782 **Clerks of court; electronic filing. §17.1-256** Allows a circuit court clerk to enter into an agreement with banks, mortgage companies or other lending institutions for the purpose of electronically recording certificates of satisfaction and assignments of the underlying notes secured by previously recorded deeds of trust.

House Bill 869 **Grantor/Grantee index; clerk's office. §17.1-249** Permits, but does not require, a court clerk's office to maintain grantor/grantee indexes on paper.

House Bill 1209 **Military service discharge records. §17.1-208** Provides that discharge certificates and reports of separation from active duty recorded with the clerk of circuit court shall be open for inspection and copying only by (i) the subject of the record, (ii) the conservator or guardian of the subject, (iii) the executor or administrator of the subject's estate, (iv) representatives acting on behalf of or at the request of the subject, or (v) any agency of federal, state, or local government. The bill also provides that the clerk may permit the use of discharge certificates or reports of separation from active duty for bona fide research purposes if the subject of the record is deceased.

Senate Bill 74 **Circuit Court Clerks. §17.1-249(B) and §55-66.4:2** Any certificate of satisfaction or certificate of partial satisfaction, assignment, loan modification agreement, substitution of trustees or similar instrument subsequently recorded with respect to a deed shall be sufficiently indexed if the clerk indexes the beneficiary, or in lieu thereof, the first listed trustee.

- **§17.1-275(A)(1)** With regard to recording fees, the \$1 assessment for endorsing the clerk's certificate on recordings has been repealed.
- **§17.1-275(A)(2)** With regard to recording fees, Paragraph 2 now provides a \$16 fee to record a document of 10 or fewer pages. The recording fee of \$30 applies to documents of 11 to 30 pages, and \$50 is the charge for documents consisting of 31 pages or more. Plats no larger than 8 ½" x 14" that are attached to an instrument shall

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- be counted as ordinary pages for the purposes of computing the recording fee. A fee of \$15 per page or sheet shall be charged for plats larger than 8 ½" x 14".
- **§17.1-275(A)(2)** Clerks may no longer charge the Commonwealth for condemnations.

HB 675 Technology Trust Fund Fee; sunset provisions. §17.1-279 Sunset provisions for this fee are extended from July 1, 2002, to July 1, 2004.

SB 527 Property; release of liens. §55-66.3 Clarifies that the obligor may provide the lien creditor with the name and address of the person to whom a certificate of satisfaction or of partial satisfaction shall be sent, and that if no such notice is provided, the certificate shall be delivered to the appropriate clerk's office. The bill provides that courier hand delivery with written proof of receipt from the clerk's office is an additional method of delivery for certificates of satisfaction. The bill also conforms the procedures applicable to the filing of such certificates when releases are made by original lien creditors or by subsequent note holders.

SB 549 Property; subordinate mortgages. §55-58.3 Incorporates the definition of "subordinate mortgage" a mortgage that is subordinate in priority as the result of a previous refinancing. The refinance mortgage should state on the first page thereof in bold or capitalized letters: "THIS IS A REFINANCE OF A (DEED OF TRUST, MORTGAGE OR OTHER SECURITY INTEREST) RECORDED IN THE CLERK'S OFFICE, CIRCUIT COURT OF (NAME OF COUNTY OR CITY), VIRGINIA, IN DEED BOOK _____, PAGE _____, IN THE ORIGINAL PRINCIPAL AMOUNT OF _____, AND WITH THE OUTSTANDING PRINCIPAL BALANCE WHICH IS _____."

House Bill 187 Recordation Tax: leases for outdoor advertising signs. §58.1-807 Provides that tax on the recordation of leases of outdoor advertising signs owned by a person engaged in the business of outdoor advertising licensed by the Virginia Department of Transportation shall not exceed 25 dollars.